

08/750,715



**UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/750,715	03/19/97	EIGEN M	P60752USO

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MM41/0901

EXAMINER	
NOLAND, T	
ART UNIT	PAPER NUMBER
2856	12

DATE MAILED: 09/01/98

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.

**A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET
TO EXPIRE 3 MONTHS, ~~DAYS~~ FROM THE DATE OF THIS LETTER.**

*Corrected or
Supplemental Action
(Final Rejection)*

Office Action Summary

Application No.

08/750,715

Applicant(s)

Eigen et al

Examiner

Tom Noland

Group Art Unit

2856

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/21/98
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 33-66 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 33-66 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. The supplemental amendment filed July 21, 1998 has now been entered in view of the authorization to charge necessary fees under 37 CFR 1.17 during pendency filed December 17, 1996 in the 371 transmittal letter. The charge is necessary because the nature and extent of the supplemental amendment is evidence that the amendment filed June 1, 1998 was not fully responsive and this supplemental amendment was needed to complete the responses. To the extent necessary for this action the final rejection mailed Aug. 19, 1998 is withdrawn and the amendment filed June 1, 1998 is held nonresponsive. Since the response completion was filed within the 6th month from the Office action dated January 30, 1998 a three month time extension is necessary. A fee of \$840.00 has been charged to deposit account no. 06-1358, said fee being the difference between the 3 month extension fee and the already paid 1 month extension fee.
2. Paragraphs 1-4 and 6-9 of the office action mailed Aug. 19, 1998, paper no. 11 are represented by reference thereto and thus apply herein.
3. Claims 36, 38-41, 48-52, 54-56, 58, 59, 63, 65 and 66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claiming of alternatives as in claims 6 is unclear. It should be written in Markush type language. Limitations such as "and/or" in claim 38, line 3 and claim 39, line 5 are unclear. It is unclear what is meant by "is in electrically contacts" in line 5 of claim 38. In claim 39, line 5 "the other environment receptor compartment" should be -- a receptor compartment in the other environment---. Claim 48 is unclear because the alternative claiming therein is confusing and because "is a which" in line 1 is unclear. Claims 49,

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51, 52, and 54-56 are unclear because of the alternative claiming therein. Claim 55 is also unclear because it is unclear what is meant by "claim 55" in line 1. Claims 58 and 59 are unclear since dependent claims but claim a device when base claims were directed to a method. It is also unclear what was meant by "preferably" in claim 59, line 6. The alternative claiming in claim 63 is unclear.

4. The response period is being restarted to run from the mailing date of this letter.
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Noland/dc
August 31, 1998

Serial Number: 0 81 756, 715

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Noland whose telephone number is (703) 305-4765.

The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7382.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.

9/1/98

Thomas P. Noland
Primary Examiner
Art Unit 2856

Thomas Noland